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January 15, 2020

Hon. Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. Donville Inniss*, Docket No. 18-Cr.-134 (KAM)

Dear Judge Matsumoto:

After further review of the final jury instructions, and a review of the transcripts in preparation for tomorrow's summations, Donville Inniss requests that the court insert the following language in the proposed jury instruction at the end of the Conspiracy and Substantive Counts:

“The defendant’s mere association with one or more members of a conspiracy does not automatically make the defendant a member. A person may know, be related to, or be friendly with a criminal without being a criminal himself. Mere similarity of conduct or the fact that they may have assembled together and discussed common aims and interests does not necessarily establish membership in the conspiracy.”

Defense counsel has discussed the foregoing request with the government, and the government does not have any objection.

Lastly, defense counsel apologizes for the inconvenience that this request has caused, but upon further review of the transcripts of yesterday's testimony, counsel believes that this request is necessary.¹

Respectfully,

Anthony L. Ricco

Anthony L. Ricco

cc: A.U.S.A. Sylvia Shweder (By E.C.F.)
A.U.S.A. Gerald M. Moody, Jr. (By E.C.F.)
A.U.S.A. David Gopstein (By E.C.F.)

¹Similar jury charges have been given in other cases. See, *United States v. James Cureton*, EDNY Docket No. 16-Cr.-23 (CBA) Doc. # 61, Page 19; *United States v. Anthony Mayes* (2), EDNY Docket No. 12-Cr.-385 (ARR) Doc. # 185, Page 20; *United States v. Jesus Miguel Matos*, SDNY Docket No. 18-Cr.-327 (JPO) Page 34; *United States v. Larry Seabrook (1)*, SDNY Docket No. 10-Cr-87 (RPP); *United States v. Larry Seabrook (2)* SDNY. See also, *U.S. v. Jones*, 30 F.3d 276, 282 (2d Cir. 1994); *U.S. v. Salameh*, 152 F.3d 88, 151 (2d Cir. 1998); *U.S. v. Steinberg*, 575 F.2d 1126, 1134 (2d Cir 1975); *U.S. v. Johnson*, 513 F.2d 819, 824 (2d Cir. 1975); *U.S. v. Torres*, 901 F.2d 205, 220 (2d Cir. 1990); and *U.S. v. Soto*, 716 F.2d 989, 991 (2d Cir. 1983)